

ESTTA Tracking number: **ESTTA641443**

Filing date: **11/26/2014**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91212176
Party	Defendant Kevco Intellectual Properties LLC
Correspondence Address	RICHARD L HILL DURHAM JONES & PINEGAR 4844 NORTH 300 WEST, SUITE 300 PROVO, UT 84604 5670 UNITED STATES ipmail@djplaw.com, ewynn@djplaw.com, trademarks@hjslaw.com, pvtrade- marks@djplaw.com
Submission	Testimony For Defendant
Filer's Name	Richard L. Hill
Filer's e-mail	ipmail@djplaw.com, pvtrademarks@djplaw.com
Signature	/Richard L. Hill/
Date	11/26/2014
Attachments	Applicant's Testimony Deposition-Kevin Wright.pdf(81907 bytes) KevinWright_11-18-2014Deposition.pdf(915162 bytes) Wright Exhibit 1.pdf(184514 bytes) Wright Exhibit 2.pdf(951275 bytes) Wright Exhibit 3.pdf(381107 bytes) Wright Exhibit 4.pdf(937678 bytes)

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Opposer's Initial Disclosures was served on counsel for the Opposer via U.S. Postal Service for First Class Mail delivery, on November 26, 2014, addressed to: Cheryl A. Clarkin, at Barlow, Josephs & Holmes, Ltd., 101 Dyer St. 5th floor, Providence, RI, 02903.

Signature: B. Schott
Breanna Schott

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

* * *

In the matter of)	
Trademark Application)	
Serial No. 85/676823)	Opposition No. 91212176
Trademark: BADDASS)	
NUTRITION)	Deposition of:
)	
CARDILLO, INC.)	KEVIN WRIGHT
)	
Opposer,)	
)	
vs.)	
)	
KEVCO INTELLECTUAL)	
PROPERTIES LLC)	
)	
Applicant.)	

* * *

November 18, 2014
2:48 p.m.

Durham Jones & Pinegar
3301 North Thanksgiving Way, Suite 400
Lehi, Utah

* * *

Danielle Little
Registered Professional Reporter

A P P E A R A N C E S

For the Applicant: Richard L. Hill
DURHAM JONES & PINEGAR
3301 North Thanksgiving Way
Suite 400
Lehi, Utah 84043

* * *

Also Present:
Ron Thurman

I N D E X

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DEPOSITION OF KEVIN WRIGHT

P R O C E E D I N G S

KEVIN WRIGHT,

called as a witness by and on behalf of the applicant, being
duly sworn, was examined and testified as follows:

EXAMINATION

(Whereupon, Deposition Exhibit Nos. 1-4 were marked
for identification.)

BY MR. HILL:

Q. Thank you. Let the record reflect that this is a
deposition with respect to Opposition Number 9121-2176
before the Trademark Trial and Appeal Board.

Mr. Wright, please state your full name for the
record.

A. Kevin Charles Wright.

Q. And what is your occupation?

A. I am an entrepreneur and a CEO of multiple
different companies as well as managing other corporations.

Q. And are you the manager of Rightway Nutrition
Marketing LLC?

A. I am the CEO and manager, yes.

Q. What is the address of that entity?

A. We just changed our address.

Q. Do you have the new address?

A. I do. 2150 West Broadway Road, Mesa, Arizona
85202.

1 Q. And what is the relationship of Rightway to Kevco
2 Intellectual Properties LLC?

3 A. Rightway Nutrition sells, markets, and distributes
4 nutritional supplements of many different natures. And
5 Kevco Intellectual Properties is the holder and owner of all
6 of the trademarks that Rightway represents.

7 Q. And are you the manager of Kevco --

8 A. I am.

9 Q. -- Intellectual Properties LLC?

10 A. Yes, I am.

11 Q. Does Kevco own all of the trademarks and trademark
12 registrations used by Rightway?

13 A. Yes, it does.

14 Q. Does Kevco own the trademark application Serial
15 Number 85/676,823 for BADDASS NUTRITION in class 44 for the
16 services, and I quote, "providing a website featuring
17 information, news, and commentary in the fields of
18 nutrition, health, wellness and weight management; providing
19 information, news and commentary in the fields of nutrition,
20 health, wellness and weight management"?

21 A. Yes, it does.

22 Q. Is this trademark application currently being
23 opposed by the Opposer, Cardillo, Inc., in Trademark
24 Opposition Number 9121-2176?

25 A. Yes.

1 Q. I show you what is marked Applicant's Deposition
2 Exhibit Number 1 and ask you if you recognize it?

3 A. Yes.

4 Q. Is that the notice of opposition?

5 A. Yes, it is.

6 Q. We'll submit Deposition Exhibit 1 into evidence.

7 In Exhibit 1 is the Opposer alleging that it has
8 been using the trademark BADASSSUPPLEMENTS in connection
9 with an online retail store service, and owns a trademark
10 registration for BADA\$\$SUPPLEMENTS.COM for online retail
11 stores for vitamins, supplements, nutritional products and
12 sports nutrition products?

13 A. Yes, it does.

14 Q. In Exhibit 1 is the Opposer alleging in paragraph
15 4 that Kevco's trademark BADDASS NUTRITION is confusingly
16 similar to Cardillo's marks listed in the opposition?

17 A. That's what he alleges.

18 Q. In Exhibit 1 does the Opposer further state in
19 paragraph 6 that "Potential purchasers of Kevco's services
20 are likely to believe that such services originate with, or
21 are authorized by, Cardillo, when, in fact, they are not"?

22 A. That's what it states.

23 Q. In Exhibit 1 does the Opposer further state in
24 paragraph 7 that, quote, "Confusion between the Kevco mark
25 and the Cardillo mark is likely, since the services are

1 highly related and travel in the same channels of trade to
2 the same consumers"?

3 A. Yes, he does.

4 Q. In Exhibit 1 does the Opposer further state in
5 paragraph 8 that if the Kevco trademark BADDASS NUTRITION in
6 class 44 is registered it would be, quote, "a source of
7 damage and injury to Cardillo," unquote?

8 A. Yes, he does.

9 Q. Does Kevco also own the rights to the trademark
10 BADDASS in connection with use on nutritional and sports
11 nutrition products?

12 A. Yes, it does.

13 Q. How many different nutritional and sports
14 nutrition products does Rightway have that use the trademark
15 BADDASS thereon?

16 A. Many. Over 15 or 20.

17 Q. Can you name some of those products?

18 A. Absolutely. There's BADDASS STACK, BADDASS SHRED,
19 BADDASS DRIVE, BADDASS IGNITE, BADDASS SURGE, BADDASS BURN,
20 BADDASS PROSTACK, BADDASS ALPHA BOOST, BADDASS RUSH, BADDASS
21 REVIVE, BADDASS GROWTH, BADDASS ENERGY DRINK.

22 And some of those come in multiple sizes, so a
23 combination of multiple SKUs. And I'm sure there's a couple
24 more I just couldn't peel off the top of my head.

25 Q. Are you familiar with the Opposer's website

1 WWW.BADASSSUPPLEMENTS.COM?

2 A. I am.

3 Q. Has the Opposer advertised any of Rightway's
4 products on that website?

5 A. Yes, he has.

6 Q. Can you tell me how that happened?

7 A. I was contacted by Mr. Cardillo asking me if I
8 would be willing to sell him directly my BADDASS supplement
9 products to be sold on his website because he thought it
10 would be good for both of us.

11 I told him that I didn't quite agree with that.
12 We couldn't quite come to terms. So Mr. Cardillo bought my
13 products from a third party distributor.

14 Q. Has he advertised any of the products named above
15 on his website?

16 A. Yes, he has.

17 Q. Which ones?

18 A. I believe it was BADDASS STACK, BADDASS SHRED,
19 BADDASS DRIVE, BADDASS IGNITE, and BADDASS SURGE. He might
20 have had BADDASS BURN, but I know it was those -- it was
21 five to six. I have a picture somewhere.

22 Q. And has he purchased those from one of your
23 distributors?

24 A. He would have to because he didn't purchase them
25 from me.

1 Q. I show you what's marked Applicant's Answer to
2 Trademark Opposition, which is our Deposition Exhibit Number
3 2. Do you recognize it?

4 A. Yes, I do.

5 Q. We'll introduce Deposition Exhibit Number 2 into
6 evidence.

7 Are you familiar with the three screen shots of
8 Opposer's website shown in Exhibit A of Kevco's Answer to
9 the Notice of Opposition?

10 A. Yes, I am.

11 Q. We have color screen shots from the website
12 BADASSSUPPLEMENTS.COM, which are contained in Exhibit 3. Do
13 you recognize the screen shots in Exhibit Number 3?

14 A. Yes, I do.

15 Q. And those are color screen shots as opposed to the
16 black and white screen shots currently in the file?

17 A. Correct.

18 Q. We introduce Deposition Exhibit Number 3 into
19 evidence as Deposition Exhibit Number 3.

20 When were these screen shots in Exhibit 3 taken?

21 A. They're taken the first part of 2013.

22 Q. How long did the Opposer advertise Rightway's
23 products on its website?

24 A. I believe for over a year.

25 Q. Is the website still operational?

1 A. No, it is not.

2 Q. Do you know when it went down?

3 A. I haven't seen it since the summer, I believe
4 June. It hasn't been live since June.

5 Q. Do these screen shots show Rightway's products
6 with Kevco's trademark BADDASS prominently on the Opposer's
7 website, in close proximity to Opposer's alleged common-law
8 trademark BADASSSUPPLEMENTS?

9 A. It does. Not only is it on his website, it's on
10 his home page for his website.

11 Q. In Exhibit 2, Kevco's Answer to the Opposer's
12 Notice of Opposition, in the affirmative defenses, paragraph
13 10, did Kevco state that, "Opposer has admitted that there
14 is no likelihood of confusion between Applicant's trademark
15 BADDASS NUTRITION used with its services and Opposer's
16 allegedly common-law trademark BADASSSUPPLEMENTS.COM used
17 with its services, because Opposer is selling Applicant's
18 dietary supplement goods, all bearing Applicant's trademark
19 BADDASS on Opposer's website, namely BADASSSUPPLMENTS.COM,
20 next to Opposer's alleged common-law trademark, as shown in
21 Exhibit A to the trademark opposition"?

22 A. Yes.

23 Q. In light of the Opposer's advertisement of Kevco's
24 trademark next to Opposer's trademark, can you explain in
25 your own words why the Opposer really doesn't think that

1 there is any likelihood of confusion between Opposer's
2 common-law trademark BADASSSUPPLEMENTS.COM and Kevco's
3 trademark BADDASS and BADDASS NUTRITION?

4 A. Well, first of all, if he was to think there was
5 any confusion, he wouldn't purchase my products and put them
6 on his website, first of all.

7 Second, the trademarks are completely different.
8 His is an actual e-retailer store where my products are an
9 actual product -- a consumable good product. To me, they're
10 not confusing at all.

11 Q. And if you consider the advertisement by Opposer
12 on Opposer's website of Rightway's products bearing Kevco's
13 trademark BADDASS on the same web page as Opposer's
14 trademark BADASSSUPPLEMENTS.COM, does this situation give a
15 strong indication that the Opposer was not concerned about a
16 likelihood of confusion between its common-law trademark and
17 Kevco's trademark?

18 A. That's what I would believe. Why else would he do
19 that if he thought there was confusion and he was worried
20 about confusion?

21 Q. Did this issue come up in another Trademark
22 Opposition Number 9120-9948 in which Cardillo filed a notice
23 of opposition against Kevco's trademark application for
24 BADDASS, Serial Number 85/571996, with respect to
25 nutritional supplements in class 5?

1 A. Yes, he did.

2 Q. I show you what is marked Deposition Exhibit
3 Number 4 for identification and ask you if you recognize it?

4 A. Yes, I do.

5 Q. Is that Applicant's Answer to Trademark
6 Opposition?

7 A. Yes.

8 Q. Number 9120-9948?

9 A. No. The numbers are wrong up here. 9948, yes.

10 Q. Yeah, 9948.

11 A. It's wrong here.

12 Q. We introduce Deposition Exhibit Number 4 as
13 Applicant's Deposition Exhibit Number 4.

14 In Exhibit 4 did Kevco submit the same Exhibit A
15 in a -- as an -- in an affirmative defense?

16 A. Yes.

17 Q. Let me restate that question. In Exhibit 4 did
18 Kevco submit the same Exhibit A as an affirmative defense?

19 A. Yes.

20 Q. Is the same issue in question in that opposition?
21 That the Opposer obviously had no concern about a likelihood
22 of confusion, since the Opposer advertised Rightway's
23 products bearing Kevco's trademark BADDASS prominently on
24 the products, on the same web page that had the Opposer's
25 trademark BADASSSUPPLEMENTS.COM thereon?

DEPOSITION OF KEVIN WRIGHT

1 A. I don't think he was worried about confusion. I
2 think he was trying to monopolize on my good brand.

3 Q. Is that trademark opposition matter still under
4 consideration by the board?

5 A. Yes, it is.

6 Q. I have no further questions.

7 (Whereupon, the taking of the deposition concluded
8 at 3:03 p.m.)

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C E R T I F I C A T E

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COUNTY OF SALT LAKE)

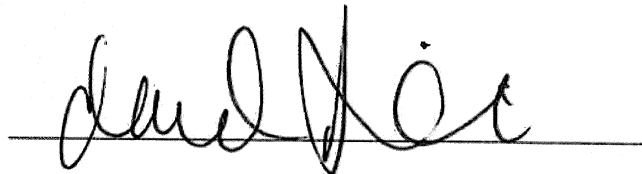
THIS IS TO CERTIFY that the foregoing deposition was taken before me, DANIELLE LITTLE, a Registered Professional Reporter in and for the State of Utah.

That the said witness was by me, before examination, duly sworn to testify the truth, the whole truth, and nothing but the truth in said cause.

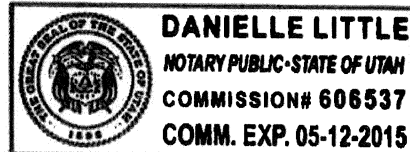
That the testimony was reported by me in Stenotype, and thereafter transcribed by computer under my supervision, and that a full, true, and correct transcription is set forth in the foregoing pages.

I further certify that I am not of kin or otherwise associated with any of the parties to said cause of action and that I am not interested in the event thereof.

WITNESS MY HAND THIS 21 day of November 2014.



Danielle Little, RPR



WITNESS SIGNATURE CERTIFICATION

14

Applicant's Exhibit 1

In the 11/18/2014 deposition of Kevin Wright

Opposition No. 9121-2176

Cardillo, Inc. v. Kevco Intellectual Properties LLC

U.S. Ser. No. 85/676,823

Trademark: BADDASS NUTRITION

International Class: 44



Applicant: Kevco Intellectual Properties LLC
Serial No.: 85/676823
Filing Date: July 13, 2012
Mark: BADDASS NUTRITION
Published: April 30, 2013

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD**

Cardillo, Inc.

Opposer,

v.

Kevco Intellectual Properties LLC,

Applicant.

Opposition No. _____

NOTICE OF OPPOSITION

This Notice of Opposition relates to the application of Kevco Intellectual Properties LLC ("Kevco"), of Bluffdale, Utah, in International Class 44, shown in Application Serial No. 85/676823, filed on July 13, 2012, and published in the Official Gazette on April 30, 2012.

Cardillo, Inc. ("Cardillo"), organized and existing under the laws of the state of Massachusetts, having a place of business at 718 Broadway, Everett, Massachusetts 02149, believes that it will be damaged by registration of BADDASS NUTRITION and hereby opposes same.

The grounds for opposition are as follows:

1. Cardillo is a company duly organized under the laws of the state of Massachusetts, having a place of business at 718 Broadway, Everett, Massachusetts 02149.
2. Cardillo has made extensive and exclusive use of the trademark BADASSSUPPLEMENTS.COM at common law at least as early as November 2006 in connection with online retail store services featuring a wide variety of vitamins, supplements, nutrition products, and sports nutrition products. Cardillo is also the owner of U.S. Trademark Registration No. 3,750,229 issued

on February 16, 2010 for the mark BADA\$\$SUPPLEMENTS.COM for on-line retail store services featuring a wide variety of vitamins, supplements, nutrition products, and sports nutrition products. A current printout of information from the electronic database records of the USPTO showing the current status and title of the registration accompanies this Notice of Opposition.

3. Notwithstanding Cardillo's ownership of the registration listed in Paragraph 2 and use of the mark at least as early as November 2006, Kevco filed an application on July 13, 2012 (Trademark Application Serial No. 85/676823) to register the mark BADDASS NUTRITION for "providing a website featuring information, news and commentary in the fields of nutrition, health, wellness and weight management; providing information, news and commentary in the fields of nutrition, health, wellness and weight management

4. The Kevco mark BADDASS NUTRITION is confusingly similar to Cardillo's marks listed in Paragraph 2.

5. Cardillo's rights as described in Paragraph 2 are prior to any rights Kevco may have in the mark BADDASS NUTRITION.

6. Potential purchasers of Kevco's services are likely to believe that such services originate with, or are authorized or approved by, Cardillo, when, in fact, they are not.

7. Confusion between the Kevco mark and the Cardillo mark is likely, since the services are highly related and travel in the same channels of trade to the same consumers.

8. If Kevco is granted the registration on the application herein opposed, it would thereby obtain a prima facie exclusive right to the use of the mark BADDASS NUTRITION, which would be a source of damage and injury to Cardillo.

WHEREFORE, Cardillo believes it will be damaged by the application for registration and prays that this Opposition be sustained in favor of Cardillo.

Respectfully submitted

By: /Cheryl A. Clarkin/
BARLOW, JOSEPHS & HOLMES, LTD.
101 Dyer Street, 5th Floor
Providence, Rhode Island 02903
Tel.: 401-273-4446

Attorney for Opposer
Cardillo, Inc.

August 27, 2013

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing NOTICE OF OPPOSITION was served on counsel for Applicant, this 27th day of August, 2013 by sending same via First Class Mail, postage prepaid, to:

Richard Hill, Esq.
Durham Jones & Pinegar
4844 N 300 W, Suite 300
Provo, UT 84604-5670

/Cheryl A. Clarkin/
Cheryl A. Clarkin



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BADA\$\$SUPPLEMENTS.COM

Word Mark	BADA\$\$SUPPLEMENTS.COM
Goods and Services	IC 035. US 100 101 102. G & S: On-line retail store services featuring a wide variety of vitamins, supplements, nutrition products, and sports nutrition products. FIRST USE: 20061100. FIRST USE IN COMMERCE: 20061100
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Trademark Search Facility Classification Code	CURRENCY Includes Dollar, Cent, and Pound marks NOTATION-SYMBOLS Notation Symbols such as Non-Latin characters,punctuation and mathematical signs,zodiac signs,prescription marks
Serial Number	77210129
Filing Date	June 19, 2007
Current Basis	1A
Original Filing Basis	1B
Published for Opposition	August 19, 2008
Registration Number	3750229
Registration Date	February 16, 2010
Owner	(REGISTRANT) Cardillo, Inc. CORPORATION MASSACHUSETTS 718 Broadway Everett MASSACHUSETTS 02149

Attorney of
Record Susan Neuberger Weller
Type of Mark SERVICE MARK
Register PRINCIPAL
Live/Dead
Indicator LIVE

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Exhibit 2

In the 11/18/2014 deposition of Kevin Wright

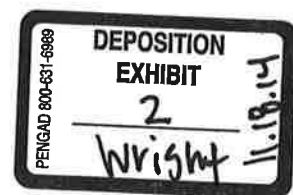
Opposition No. 9121-2176

Cardillo, Inc. v. Kevco Intellectual Properties LLC

U.S. Ser. No. 85/676,823

Trademark: BADDASS NUTRITION

International Class: 44



1. Applicant is without knowledge or information of the allegations of Paragraph 1 regarding Opposer's company and therefore denies the same.
2. Applicant is without knowledge or information of the allegations of Paragraph 2 regarding Opposer's trademark use and therefore denies the same. Applicant is aware of the existence of the trademark registration allegedly owned by Cardillo ("Opposer's Registration") with respect to services in international class 35, but Applicant is without knowledge as to the ownership thereof and therefore denies the same. Applicant did not receive the stated printout of information.
3. Applicant is without knowledge of Cardillo's trademark usage, and therefore denies the same. Applicant admits that it filed a trademark application with respect to services in international class 44, as recited in Paragraph 3.
4. Applicant denies the allegations of Paragraph 4.
5. Applicant is without knowledge or information of the allegations of Paragraph 5 regarding Opposer's trademark rights and therefore denies the same.
6. Applicant denies the allegations of Paragraph 6.
7. Applicant denies the allegations of Paragraph 7.

8. Applicant admits that a registration based on Applicant's Application would provide a prima facie exclusive right to use the BADDASS mark with respect to the goods recited in such registration. Otherwise, Applicant denies the allegations of Paragraph 8.

AFFIRMATIVE DEFENSES

9. There is no likelihood of confusion, mistake or deception because *inter alia*, Applicant's mark BADDASS NUTRITION in Applicant's Application with the services in international class 44 described in Applicant's Application is not confusingly similar with Opposer's mark BADA\$\$SUPPLEMENTS.COM in Opposer's Registration with the services in international class 35 described in Opposer's Registration.

10. Opposer has admitted that there is no likelihood of confusion between Applicant's trademark BADDASS NUTRITION used with its services and Opposer's alleged common-law trademark BADASSSUPPLEMENTS.COM ("Opposer's Common-law Mark") with its services, because Opposer is selling Applicant's dietary supplement goods, all bearing the Applicant's trademark BADDASS, on Opposer's website www.badasssupplements.com, next to Opposer's alleged Common-law Mark, as shown in the attached Exhibit A.

11. Opposer has admitted that there is no likelihood of confusion between Applicant's trademark BADDASS NUTRITION used with its services and Opposer's alleged common-law trademark BADASSSUPPLEMENTS.COM and registered trademark BADA\$\$SUPPLEMENTS.COM used with their services, because Opposer did not oppose the Applicant's trademark registrations for BADDASS NUTRITION (Reg. No. 4,219,260) and YOU ARE BADDASS (Reg. No. 4,253,136), both registered in international class 5 for dietary and nutritional supplements, as shown in the attached Exhibit B.

12. Opposer's registered trademark BADA\$\$SUPPLEMENTS.COM in Opposer's Registration has narrow and limited rights with respect to its services in international class 35, because it uses the \$\$ symbol, rather than the letters SS in the mark and because its services to not extend to international class 44.

13. Opposer has abandoned its registered trademark BADA\$\$SUPPLEMENTS.COM.

WHEREFORE, Applicant requests that the Trademark Trial and Appeal Board deny Opposer's prayer to prohibit registration of the cited trademark application, U.S. Trademark Application Serial No. 85/676823, and Applicant requests that the Trademark Trial and Appeal Board allow said trademark application to proceed to registration.

KEVCO INTELLECTUAL PROPERTIES LLC

By: Richard L. Hill
Richard L. Hill, Attorney for Applicant
Durham Jones & Pinegar
4844 North 300 West, Suite 300
Provo, Utah 84604
801-375-6600

Date 9/17/13.

CERTIFICATE OF SUBMISSION AND SERVICE

I hereby certify that the foregoing Answer to the Notice of Opposition, with Exhibits A and B attached, is being submitted to the Trademark Trial and Appeal Board via online submission on the following date:

9/17/13

I hereby certify that a copy of the foregoing Answer to the Notice of Opposition was sent to counsel for the Opposer via U.S. Postal Service for First Class Mail delivery, on the following date: 9/17/13 addressed to: Cheryl A. Clarkin, Barlow, Josephs & Holmes, Ltd., 101 Dyer St. 5th floor, Providence, RI, 02903

Signature: Elizabeth Wynn
Elizabeth Wynn, paralegal

ANSWER

Exhibit A

Opposition No. 91212176

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BADASS SUPPLEMENTS.COM

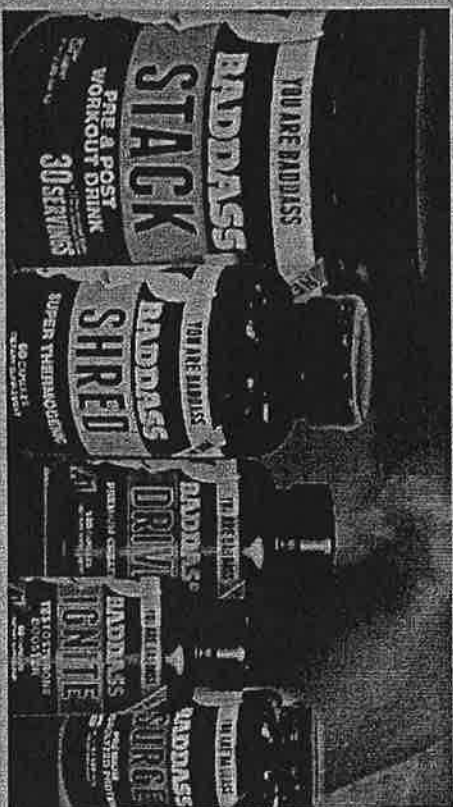
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Popular Products

1. Muscletech Nitro-Tech Hardcore 4lb
2. BSN Fit Stack Elite (Syntha-6, NO Xplode, Thermotek, Creatine, Beta-Alanine, Aquasol)
3. AMERICAN CELLULAR LABS TREN EXTREME 90caps
4. BSN Elite Mass Stack 7days




<https://www.baddasssupplements.com/index.php?PHPSESSID=4f1c5e98d5b27a50bd2abf0ac0bd2cbb>

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- CLA (Conjugated Linoleic Acid)
- Cleansing and Detoxification
- Coenzyme Q10 (CoQ-10)
- Creatine
- Diabetes Support
- DHEA
- Digestive Aids
- Diuretics
- Endurance and Recovery
- Energy
- Energy (Pre-Workout)
- Ephedra Products
- Estrogen Blockers
- Eye Support
- Fat Calipers / Body Tape Measure
- Fatty Acids and Essential Oils
- Glutamine
- Heart Support



Latest Products

		
Baddass Nutrition - Stack The	Baddass Nutrition - Elite Super	Baddass Nutrition - Shred
\$28.99	\$28.89	\$28.99
Info Add to basket	Info Add to basket	Info Add to basket

Featured Product



Cypsport Muscle Milk Pudding 24pk

Popular Products

1. Muscledigest Nitro-Tech Hardcore 4lb
2. BSN Fit Stack Elite (Syntra-6, NO-Xplode, Thermorex, Chemax Relief, Nitix 190 tabs)
3. AMERICAN CELLULAR TABS TREN EXTREME 90 CAPS
4. BSN Elite Mass Stack (True-Mass, NO-Xplode, Cellmass, Nitix 180 tabs)
5. Gaspar Nutrition (ORIGINAL) Haidito-50 30 tablets
6. XXL NUTRITION FGT2 STRONGEST Polymers 8 tabs
7. Gaspar Nutrition Ultimate Anabolic Stack (Superior 210, Sizeon 284 tabs, Novexon XT 6 tabs)
8. Muscledigest Gel-Tech Hardcore 6.75lb
9. BSN Nitro-Xplode Combo (1 X Nitix 180 tabs, 1 X NO-Xplode)
10. FREE 30 Pack of Free & Fast

Books

- Carb Blockers / Appetite Control
- CLA (Conjugated Linoleic Acid)
- Cleansing and Detoxification
- Coenzyme Q10 (CoQ-10)
- Creatine
- Diabetes Support
- DHEA
- Digestive Aids
- Diuretics
- Endurance and Recovery
- Energy
- Energy (Pre-Workout)
- Ephedra Products
- Estrogen Blockers
- Eye Support
- Fat Calipers / Body Tape Measure
- Fatty Acids and Essential Oils
- Glutamine
- Heart Support
- Herbs
- HGH (Human Growth Hormone)
- HMB
- Immune System Support
- Insulin Support
- Joint Support
- Liver Support
- Low Carb Products
- Meal Replacements (MRF)
- Mental Focus and Memory /

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Baddass Nutrition - Shred...

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Baddass Nutrition - Surge

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Baddass Nutrition - Drive 120 Capsules

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Baddass Nutrition - Ignite 60 Capsules

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2. BSN Nitro-Xplode Elite (Synthetic NO-Xplode, Thermogenics, Chaperone Relief, Nitro-X 180)
3. AMERICAN CELLULAR TREN EXTREME ROCAPS
4. BSN Elite Mass Stack (True Mass, NO-Xplode, Cellulose Nitro-X 180caps)
5. Gaspar Nutrition (ORIGIN) Halodrol-50 30caps
6. XXL Nutrition PEGZ STRONGEST PTHOMONE 60caps
7. Gaspar Nutrition Ultimate Anabolic Stack (Superpump Sizeon 2.84lb, Novdex XT 1b, 7lb)
8. Muscletech Cell-Tech HMB 1b, 7lb
9. BSN Nitro-Xplode Elite (Synthetic NO-Xplode, Thermogenics, Chaperone Relief, Nitro-X 180caps)
10. FREE 3D Packs of Pro & Po Workout Samples
11. LIVE ORIGINAL SPECTRA (N 25mg EPHEDRA) 100caps
12. Gaspar Nutrition Novdex XT 1b, 7lb
13. TREN TRIPLE STACK (TREN-Xplode, Nitro-X 180caps, Nitro-X 180caps)
14. Maximum Labs 30 PROTEINACT 30caps

Kevin Wright

ANSWER

Exhibit B

Opposition No. 91212176



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TSDR	ASSIGN Status	TTAB Status
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 (Use the "Back" button of the Internet Browser to return to TESS)**YOU ARE BADDASS**

Word Mark	YOU ARE BADDASS
Goods and Services	IC 005. US 006 018 044 046 051 052. G & S: Dietary and nutritional supplements; dietary and nutritional supplements for sports nutrition and for endurance and athletic sports, dietary and nutrition supplements for weight management; dietary and nutritional supplements including protein, creatine, glycerol, folic acid, carbohydrates, vitamins, minerals, amino acids, and/or testosterone. FIRST USE: 20120301. FIRST USE IN COMMERCE: 20120301
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	85572015
Filing Date	March 16, 2012
Current Basis	1A
Original Filing Basis	1A
Published for Opposition	September 18, 2012
Registration Number	4253136
Registration Date	December 4, 2012
Owner	(REGISTRANT) Kevco Intellectual Properties LLC LIMITED LIABILITY COMPANY UTAH 14513 S.

Centerpoint Way, Suite 200 Bluffdale UTAH 84065
Attorney of Record Richard L. Hill
Type of Mark TRADEMARK
Register PRINCIPAL
Live/Dead Indicator LIVE

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BADDASS NUTRITION

Word Mark	BADDASS NUTRITION
Goods and Services	IC 005. US 006 018 044 046 051 052. G & S: Dietary and nutritional supplements; dietary and nutritional supplements for sports nutrition and for endurance and athletic sports; dietary and nutritional supplements for weight management. FIRST USE: 20120215, FIRST USE IN COMMERCE: 20120215
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	85416635
Filing Date	September 7, 2011
Current Basis	1A
Original Filing Basis	1B
Published for Opposition	April 10, 2012
Registration Number	4219260
Registration Date	October 2, 2012
Owner	(REGISTRANT) KEVCO INTELLECTUAL PROPERTIES LLC LIMITED LIABILITY COMPANY UTAH 14513 S. CENTERPOINT WAY, SUITE 200 BLUFFDALE UTAH 84065
Assignment	ASSIGNMENT RECORDED

Recorded
Attorney of Record Richard L. Hill
Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "NUTRITION" APART FROM THE MARK AS SHOWN
Type of Mark TRADEMARK
Register PRINCIPAL
Live/Dead Indicator LIVE

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NEXT LIST	FIRST DOC	PREV DOC	NEXT DOC	LAST DOC					

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Exhibit 3

In the 11/18/2014 deposition of Kevin Wright

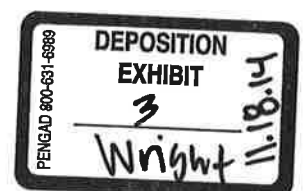
Opposition No. 9121-2176

Cardillo, Inc. v. Kevco Intellectual Properties LLC

U.S. Ser. No. 85/676,823

Trademark: BADDASS NUTRITION

International Class: 44



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Cytosport Muscle Milk Pudding 24pk

Popular Products

1. Muscletech Nitro-Tech Hardcore 4lb
2. BSN Fit Stack Elite (Syntra-6, NO-Xplode, Thermorex, Cheaters Relief, Nitrix 180tabs)
3. AMERICAN CELLULAR LABS TREN EXTREME 90caps
4. BSN Elite Mass Stack (True-



10. FREE 30 Pack of Pro 2 Post



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- Books:
- Carb Blockers / Appetite Control
 - CLA (Conjugated Linoleic Acid)
 - Cleansing and Detoxification
 - Coenzyme Q10 (CoQ-10)
 - Creatine
 - Diabetes Support
 - DHEA
 - Digestive Aids
 - Diuretics
 - Endurance and Recovery
 - Energy
 - Energy (Pre-Workout)
 - Ephedra Products
 - Estrogen Blockers
 - Eye Support
 - Fat Calipers / Body Tape Measure
 - Fatty Acids and Essential Oils
 - Glutamine
 - Heart Support
 - Herbs
 - HGH (Human Growth Hormone)
 - HMB
 - Immune System Support
 - Insulin Support
 - Joint Support
 - Liver Support
 - Low Carb Products
 - Meal Replacements (MRP)
 - Mental Focus and Memory /

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Baddass Nutrition - Shred...

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Baddass Nutrition - Surge...

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Baddass Drive 120 Capsules...

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Baddass Ignite 60 Capsules

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2. BSN Fit Stick Elite (Synth NO-Xplode, Thermo-X, Cheaters Relief, Nitro 150)
3. AMERICAN CELLULAR TREN EXTREME 80caps

4. BSN Elite Mass Stick (True Mass, NO-Xplode, Calmax Nitro 180caps)

5. Gaspar Nutrition (ORIGINAL) Halodrol-50 30tablets

6. XXL Nutrition PGT2 STRONGEST Prohormone 80caps

7. Gaspar Nutrition Ultimate Anabolic Stack (Superdram Sizeon 2.84lb, Mowdies XL 6.7lb)

8. Muscletech Cell-Fresh Hunt 6.7lb

9. BSN Nitro/NO-Xplode Com X Nitro 180tablets, 1 X NO-Xp

10. FREE 30 Packs of Pw & Pw Workout Samples

11. NIVE ORIGINAL Stick 2.1 25 mg EPHEDRAL 100caps

12. Gaspar Nutrition New Mass 80caps

13. TREN TRIPLE STAK (1 X TN Xylene, 1 X Diamond, 1 X M Thine)

14. Maximum Labz SUPER-MAZ 60caps

Exhibit 4

In the 11/18/2014 deposition of Kevin Wright

Opposition No. 9121-2176

Cardillo, Inc. v. Kevco Intellectual Properties LLC

U.S. Ser. No. 85/676,823

Trademark: BADDASS NUTRITION

International Class: 44



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the matter of Trademark Application Serial No. 85/571996

Trademark: **BADDASS**

International Class: 5

CARDILLO, INC.)	
)	
Opposer)	
)	Opposition No.91209948
vs.)	
)	
KEVCO INTELLECTUAL PROPERTIES LLC)	
)	
Applicant)	
)	

ANSWER TO NOTICE OF OPPOSITION

Applicant, Kevco Intellectual Properties LLC, having a place of business at 14513 South Centerpoint Way, Suite 200, Bluffdale, UT 84065, through its undersigned attorney, hereby responds to the above-referenced Notice of Opposition filed by Opposer, Cardillo, Inc., having a business address at 718 Broadway, Everett, MA02149, by denying that Opposer will be damaged by registration of the Applicant's Mark for BADDASS in Trademark Application Serial No. 85/571996 ("Applicant's Application"). Applicant further responds to each numbered paragraph in the Notice of Opposition as follows:

1. Applicant is without knowledge or information of the allegations of Paragraph 1 regarding Opposer's company and therefore denies the same.

2. Applicant is without knowledge or information of the allegations of Paragraph 2 regarding Opposer's trademark use and therefore denies the same. Applicant is aware of the existence of the trademark registration allegedly owned by Cardillo ("Opposer's Registration") but Applicant is without knowledge as to the ownership thereof and therefore denies the same. Applicant did not receive the stated printout of information.

3. Applicant is without knowledge of Cardillo's ownership of Opposer's Registration and therefor denies the same. Applicant admits the allegations of Paragraph 3 regarding the filing of Applicant's Application.

4. Applicant denies the allegations of Paragraph 4.

5. Applicant is without knowledge or information of the allegations of Paragraph 5 regarding Opposer's trademark rights and therefore denies the same.

6. Applicant denies the allegations of Paragraph 6.

7. Applicant denies the allegations of Paragraph 7.

8. Applicant admits that a registration based on Applicant's Application would provide a prima facie exclusive right to use the BADDASS mark with respect to the goods recited in such registration. Otherwise, Applicant denies the allegations of Paragraph 8.

AFFIRMATIVE DEFENSES

9. There is no likelihood of confusion, mistake or deception because *inter alia*, the use of Applicant's mark BADDASS in Applicant's Application with the goods described in the Applicant's Application is not confusingly similar with the use of Opposer's mark BADA\$\$SUPPLEMENTS.COM in Opposer's Registration with the services described in Opposer's Registration.

10. Opposer has admitted that there is no likelihood of confusion between Applicant's trademark BADDASS used with its goods and Opposer's alleged common-law trademark BADASSSUPPLEMENTS.COM ("Opposer's Common-law Mark") used with its services, because Opposer is selling Applicant's dietary supplement goods, all bearing the Applicant's trademark BADDASS, on Opposer's website www.badasssupplements.com, next to Opposer's Common-law Mark, as shown in the attached Exhibit A.

11. Opposer has admitted that there is no likelihood of confusion between Applicant's trademark BADDASS used with its goods and Opposer's alleged common-law trademark BADASSSUPPLEMENTS.COM and registered trademark BADA\$\$SUPPLEMENTS.COM used with their services, because Opposer did not oppose the Applicant's trademark registrations for BADDASS NUTRITION (Reg. No. 4,219,260) and YOU ARE BADDASS (Reg. No. 4,253,136), both registered in class 5 for dietary and nutritional supplements, as shown in the attached Exhibit B.

12. Opposer's registered trademark BADA\$\$SUPPLEMENTS.COM in Opposer's Registration has narrow and limited rights with respect to its services, because it uses the \$\$ symbol, rather than the letters SS in the mark.

13. Opposer has abandoned its registered trademark BADA\$\$SUPPLEMENTS.COM.

WHEREFORE, Applicant requests that the Trademark Trial and Appeal Board deny Opposer's prayer to prohibit registration of the cited trademark application, U.S. Trademark Application Serial No. 85/571996, and Applicant requests that the Trademark Trial and Appeal Board allow said trademark application to proceed to registration.

KEVCO INTELLECTUAL PROPERTIES LLC

By: 

Richard L. Hill, Attorney for Applicant
Durham Jones & Pinegar
4844 North 300 West, Suite 300
Provo, Utah 84604
801-375-6600

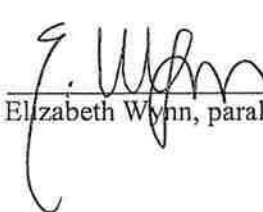
Date Apr. 30, 2013

CERTIFICATE OF SUBMISSION AND SERVICE

I hereby certify that the foregoing Answer to the Notice of Opposition is being submitted to the Trademark Trial and Appeal Board via online submission on the following date: Apr. 30, 2013

I hereby certify that a copy of the foregoing Answer to the Notice of Opposition was sent to counsel for the Opposer via U.S. Postal Service for First Class Mail delivery, on the following date: April 30, 2013 addressed to: Cheryl A. Clarkin, Barlow, Josephs & Holmes, Ltd., 101 Dyer St. 5th floor, Providence, RI, 02903

Signature: _____


Elizabeth Wynn, paralegal

ANSWER

EXHIBIT A

Cancellation No. 91209948

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Bloods

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Kevin Wright

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Popular Products

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2. BSN HMB (Bodybuilding)

3. BSN HMB (Bodybuilding)

4. BSN HMB (Bodybuilding)

5. BSN HMB (Bodybuilding)

6. BSN HMB (Bodybuilding)

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- Starter kits
- Promotions

Allergy Support

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Amino Acids

Anti-Estrogen / PCT

Antioxidants

BCAAs

Sticks

Carb Blockers / Appetite Control

CLA (Conjugated Linoleic Acid)

Cleansing and Detoxification

Coenzyme Q10 (CoQ-10)

Creatine

Dietary Support

DHEA

Digestive Aids

Diuretics

Endurance and Recovery

Energy

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Ephedra Products

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Fatty Acids and Essential Oils

Glutamine

Heart Support



Featured Product



Cytoport Maltitol Milk Pudding 20g

Popular Products

1. Muscle Support / Testosterone Support
2. BSN Elite Series Elite Synergy 8
3. AMERICAN CYCLES LABS
4. BSN Elite Series Elite Synergy 8
5. Custom Nutrition 7000 Series
6. Custom Nutrition 7000 Series
7. Custom Nutrition 7000 Series
8. Custom Nutrition 7000 Series
9. Custom Nutrition 7000 Series

Latest Products



RADPASS SUPPLEMENT - Black

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RADPASS SUPPLEMENT - Blue

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RADPASS SUPPLEMENT - Silver

\$28.99

Info



Form 33

- Card Blockers / Angiotensin Control
- CLA (Conjugated Linoleic Acid)
- Cleansing and Detoxification
- Coenzyme Q10 (CoQ-10)
- Creatine
- Diabetes Support
- DHEA
- Digestive Aids
- Diuretics
- Endurance and Recovery
- Energy
- Energy (Pre-Workout)
- Ephedra Products
- Estrogen Blockers
- Eyes Support
- Fat Calipers / Body Tape Measure
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- Heart Support
- Herbs
- HGH (Human Growth Hormone)
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- Immune System Support
- Insulin Support
- Joint Support
- Liver Support
- Low Carb Products
- Male Rejuvenation (TRT)
- Mental Focus and Memory

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Baddass Nutrition - 100 Capsules
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3. BSV Energy
4. BSV Energy
5. BSV Energy
6. BSV Energy
7. BSV Energy
8. BSV Energy
9. BSV Energy
10. BSV Energy
11. BSV Energy
12. BSV Energy

ANSWER

EXHIBIT B

Cancellation No. 91209948



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YOU ARE BADDASS

Word Mark YOU ARE BADDASS

Goods and Services IC 005. US 006 018 044 046 051 052. G & S: Dietary and nutritional supplements; dietary and nutritional supplements for sports nutrition and for endurance and athletic sports, dietary and nutritional supplements for weight management; dietary and nutritional supplements including protein, creatine, glycerol, folic acid, carbohydrates, vitamins, minerals, amino acids, and/or testosterone. FIRST USE: 20120301. FIRST USE IN COMMERCE: 20120301

Standard Characters Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Serial Number 85572015

Filing Date March 16, 2012

Current Basis 1A

Original Filing Basis 1A

Published for Opposition September 18, 2012

Registration Number 4253136

Registration Date December 4, 2012

Owner (REGISTRANT) Kevco Intellectual Properties LLC LIMITED LIABILITY COMPANY UTAH 14513 S.

Centerpoint Way, Suite 200 Bluffdale UTAH 84065
Attorney of Record Richard L. Hill
Type of Mark TRADEMARK
Register PRINCIPAL
Live/Dead Indicator LIVE

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BADDASS NUTRITION

Word Mark	BADDASS NUTRITION
Goods and Services	IC 005. US 006 018 044 046 051 052. G & S: Dietary and nutritional supplements; dietary and nutritional supplements for sports nutrition and for endurance and athletic sports; dietary and nutritional supplements for weight management. FIRST USE: 20120215. FIRST USE IN COMMERCE: 20120215
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Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	85416635
Filing Date	September 7, 2011
Current Basis	1A
Original Filing Basis	1B
Published for Opposition	April 10, 2012
Registration Number	4219260
Registration Date	October 2, 2012
Owner	(REGISTRANT) KEVCO INTELLECTUAL PROPERTIES LLC LIMITED LIABILITY COMPANY UTAH 14513 S. CENTERPOINT WAY, SUITE 200 BLUFFDALE UTAH 84065
Assignment	ASSIGNMENT RECORDED

Recorded**Attorney of
Record** Richard L. Hill**Disclaimer** NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "NUTRITION" APART FROM THE
MARK AS SHOWN**Type of Mark** TRADEMARK**Register** PRINCIPAL**Live/Dead
Indicator** LIVE

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